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UNCLAS ABU DHABI 05115

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UNCLAS SECTION 01 OF 06 ABU DHABI 005115

SIPDIS

STATE FOR NEA/ARPI, INL, EB/ESC/TFS
JUSTICE FOR OIA, AFMLS
TREASURY FOR FINCEN

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TAGS: [EFIN](#) [KCRM](#) [KTFN](#) [PTER](#) [SNAR](#)
SUBJECT: UAE CONTRIBUTION TO 2005-2006 INCSR, FINANCIAL
CRIMES AND MONEY LAUNDERING

REF: STATE 210691

11. The United Arab Emirates (UAE) is an important financial center for the Gulf region. The UAE is still a largely cash-based society. However, the financial sector is modern and progressive. Dubai, in particular, is a major international banking center. There is also a growing offshore sector. The UAE's robust economic development, political stability, and liberal business environment have attracted a massive influx of people and capital. Because of the UAE's geographic location and role as the primary transportation and trading hub for the Gulf States, East Africa, and South Asia, and with its expanding trade ties with the countries of the former Soviet Union, the UAE has the potential to be a major center for money laundering of proceeds of foreign criminal activity. The large number of resident expatriates from the above regions, many of whom are engaged in legitimate trade with their homelands, or send remittances there, exacerbates that potential. Approximately 80 percent of the UAE population is comprised of non-nationals. The laundering of proceeds from the illegal narcotics trade is known to occur in UAE, and given the country's close proximity to Afghanistan, where most of the world's opium is produced, such narcotics-trafficking is a likely source. In addition, the potential exploitation of the UAE financial system by foreign terrorist groups is a serious concern.

12. Following the September 11 terrorist attacks in the United States, and amid revelations that terrorists had moved funds through the UAE, the Emirates' authorities acted swiftly to address potential vulnerabilities and, in close concert with the United States, to freeze the funds of groups with terrorist links, including the Al-Barakat organization, which was headquartered in Dubai. Both federal

and Emirate-level officials have gone on record as recognizing the threat money laundering activities in the UAE pose to the nation's security. Since 2001, the UAEG has taken steps to better monitor cash flows through the UAE financial system and to cooperate with international efforts to combat terrorist financing. The UAE has enacted two laws that serve as the foundation for the country's anti-money laundering (AML) and counterterror finance (CTF) efforts: Law No. 4/2002, the Anti-Money Laundering Law, and Law No. 1/2004, the Counter Terror Law.

¶3. The UAE's Anti-Money Laundering Law, Law No. 4 of 2002 criminalizes all forms of money laundering activities. The law imposes criminal penalties (up to seven years in prison and a fine of up to 300,000 dirhams (\$81,700), as well as seizure of assets if found guilty) for money laundering. It also provides safe harbor provisions for those who report such crimes. Although the Anti-Money Laundering Law criminalizes money laundering, it is Administrative Regulation No. 24/2000 that provides guidelines for how financial institutions are to monitor for money laundering activity. This regulation requires banks, money exchange houses, finance companies, and any other financial institutions operating in the UAE to follow strict "know your customer" guidelines. Additionally, financial institutions must verify the customer's identity and maintain transaction details (including name and address of originator and beneficiary) for all exchange house transactions over \$545 and for all non-account holder bank transactions over \$10,900. The regulation delineates the procedures to be followed for the identification of natural and juridical persons, the types of documents to be presented, and rules on what customer records must be maintained on file at the institution. Other provisions of Regulation 24/2000 call for customer records to be maintained for a minimum of five years and further require that they be periodically updated as long as the account is open.

¶4. On July 29, 2004, the UAE strengthened its legal authority to combat terrorism and terrorist financing, by passing Federal Law Number 1 of 2004 on Combating Terror Crimes (Law No. 1/2004). The law sets stiff penalties for the crimes covered, including life imprisonment and the death penalty. It also provides for asset seizure or forfeiture. Under the law, founders of terrorist organizations face up to life imprisonment. The law also penalizes the illegal manufacture, import, or transport of "non-conventional weapons" or their components, with the intent to use them in a terrorist activity.

¶5. Law No. 1/2004 specifically criminalizes the funding of terrorist activities or terrorist organizations. Article 12 provides that raising or transferring money with the "aim or with the knowledge" that some or all of this money will be used to fund terrorist acts is punishable by "life or temporary imprisonment," whether or not these acts occur. Law No. 1/2004 grants the Attorney General (or his deputies) the authority to order the review of information related to the accounts, assets, deposits, transfer, or property movements on which the Attorney General has "sufficient evidence to believe" are related to the funding or committing of a terror activity stated in the law. The law also provides for asset seizure and confiscation. Article 31 gives the Attorney General the authority to seize or freeze assets until the investigation is completed. Article 32 confirms the Central Bank's authority to freeze accounts for up to seven days if it suspects that the funds will be used to fund or commit any of the crimes listed in the law. The law also allows the right of appeal to "the competent court" of any asset freeze under the law. The court will rule on the complaint within 14 days of receiving the complaint. There are no known criminal convictions under either the 2002 or the 2004 legislations.

¶6. Law No. 1/2004 also sets up a "National Anti-Terror Committee" with representatives from the Ministries of Foreign Affairs, Interior, Justice, and Defense, the Central Bank, the State Security Department, and the Federal Customs Authority. The Committee serves as a UAE interagency liaison, implements UN Security Council Resolutions on terrorism, and shares information with its foreign

counterparts as well as with the United Nations (UN).

¶7. The UAE's National Anti-Money Laundering Committee (NAMLC) is responsible for coordinating anti-money laundering policy. It is Chaired by the Central Bank Governor, with representatives from the Ministries of Interior, Justice, Finance, and Economy; the National Customs Board; the Secretary General of the Municipalities; the Federation of the Chambers of Commerce; and five major banks and money exchange houses (as observers).

¶8. The supervision of the UAE banking and financial sector (including banks, exchange houses, and investment companies) falls under the authority of the CB. The CB issues licenses to financial institutions under its supervision and can impose administrative sanctions for compliance violations. The CB issues instructions and recommendations as it deems appropriate and is permitted to take any necessary measure to ensure the integrity of the UAE's financial system. The CB has issued a number of circulars outlining the requirements for customer identification and providing for a basic suspicious transaction-reporting obligation. To educate banking officials responsible for implementing these requirements, the CB hosts frequent training programs and workshops. For example, in September 2005, the CB conducted a training session for money exchange compliance officers. The training focused on compliance issues specific to money exchanges, and it covered how to effectively implement the CB's KYC policies and suspicious transaction reporting requirements. When suspicious activity is reported from a financial institution, the Central Bank is able to freeze suspect funds, make appropriate inquiries, and coordinate with law enforcement officials.

¶9. Law 4/2002 provided for the establishment of the Anti-Money Laundering and Suspicious Case Unit (AMLSCU), which acts as the Financial Intelligence Unit (FIU) and is housed within the CB. Financial institutions under the supervision of the CB are required to report suspicious transactions to the AMLSCU, which is charged with examining them and referring inquiries and information to law enforcement and judicial authorities. It has the authority to request information from foreign regulatory authorities in carrying out its preliminary investigation of suspicious transaction reports. The AMLSCU—a member of the Egmont Group since June 2002—exchanges information with foreign FIUs on a reciprocal basis, and has provided information relating to investigations carried out by the United States and other countries. Since December 2000, the CB has referred 108 cases to foreign FIUs.

¶10. From December 2004 to December 2005, the AMLSCU received and investigated 772 suspicious transaction reports (STRs). No freeze orders were issued in 2005 based on STR submissions, but since 2000, the CB has issued 27 freeze orders based on AMLSCU and law enforcement investigations. Twelve of those cases are in the process of prosecution for money laundering and confiscation of proceeds. The CB circulates to all financial institutions under its supervision the UNSCR 1267 Sanctions Committee's consolidated list. Since 2000, it has frozen \$1,348,381 in 17 accounts based on the UNSCR 1267 list.

¶11. Some money laundering in the UAE occurs in the formal banking system, including the numerous money exchange houses, but it is believed to be more prevalent in the informal and largely undocumented hawala remittance system. The fact that hawala is an undocumented and nontransparent system, and is highly resilient in response to enforcement and regulatory efforts, makes it difficult to control and an attractive mechanism for terrorist and criminal exploitation. The UAE has begun to make progress in confronting its vulnerability to the unregulated use of hawala. New regulations to improve oversight of the hawala system were implemented in 2002, when the CB required hawala brokers to register, submit remittance reports, and to file suspicious transaction reports. As of November 30 2005, 184 hawala brokers (hawaladars) have applied to register with the CB. The CB has issued Hawaladar Certificates to 163 of the applicants, and the remaining 21 applicants are in the process of fulfilling CB registration requirements. The Central Bank conducts one-on-one training sessions with each

registered hawaladar to ensure the dealer understands the record-keeping and reporting obligations. There is no accurate estimate of the total number of UAE-based hawala brokers, and there is no penalty for failure of hawaladars to register.

¶12. Anecdotal information indicates the new attention on hawala is encouraging more people in the country to use regulated exchange houses. Representatives of money exchange business noted that their sector could transfer money anywhere, even to a private residence, for a fee competitive with hawala, persuading many to use the formal, and more secure, banking network. Recognizing that the continued existence of their exchange houses is dependent on carefully abiding by national and international KYC standards, many of the large exchange houses in the UAE have implemented "membership" schemes that give customers quicker service and allow the institutions to conduct a high level of KYC and transaction monitoring. The systems involve providing repeat customers photo identification cards that contain account and identification information. Additionally, beneficiary names and account details are embedded in the card data files.

¶13. There are no limits on how much cash can be imported or exported into the country. However, the UAE CB requires individuals declare cash imports above \$10,900. The regulations provide customs services with the authority to seize undeclared cash; however, enforcement is still lacking, and the declaration requirements are not well-publicized. The UAE is a cash-based economy, and it is not unusual for people to carry significant sums of cash around. As such, customs officials tend to not regard large cash imports as suspicious or possibly criminal. In September of 2005, the United States Immigration and Customs Enforcement within the Department of Homeland Security conducted a week-long training session on detecting and investigating bulk-cash smuggling. The session was attended by officials from Dubai Police and Customs.

¶14. The UAE Government (UAEG) also has admitted the need to better regulate "near-cash" items such as gold, jewelry, and gemstones, especially in the burgeoning markets in Dubai. The UAE has participated in the Kimberley Process Certification Scheme for Rough Diamonds (KPCS) since November 2002 and began certifying rough diamonds exported from the UAE on January 1, 2003. In 2004, the UAE was the first KPCS participant country to volunteer for a "peer review visit" on internal control mechanisms.

¶15. The Dubai Metals and Commodities Center (DMCC) is the quasi-governmental organization charged with issuing KP certificates in the UAE, and employs four individuals full-time to administer the KP program. Prior to January 1, 2003, the DMCC circulated a sample UAE certificate to all KP member states and embarked on a public relations campaign to educate the estimated 50 diamond traders operating in Dubai concerning the new KP requirements. UAE customs officials may delay or even confiscate diamonds entering the UAE from a KP member country without the proper certificate.

¶16. The Securities and Commodities Authority (SCA) supervises the country's two stock markets. In February 2004, it sent out anti-money laundering guidelines to brokers and the markets, instructing them to verify client information when opening accounts and created a reporting requirement for cash transactions above \$10,900. The SCA also instructed the markets and brokers to file suspicious transaction reports for initial analysis before forwarding them to the AMLSCU for further action. The instructions also provide for a five-year record keeping requirement.

¶17. Dubai's booming property market might also be susceptible to money laundering abuse. In 2002, Dubai permitted three companies to sell "freehold" properties to non-citizens. Several other emirates have announced their intention to follow suit. Abu Dhabi has passed a property law, which provides for a type of "lease hold" ownership for non-citizens, although by the end of 2005 it had not yet identified any areas where expatriates can invest. The intense interest in these properties, and rumors of cash purchases, sparked concerns about the potential for money laundering. As a result, some developers have stopped accepting cash purchases, alleviating some of the concerns

about possible money laundering activities in this sector of the economy.

¶18. The UAEG is much more sensitive since September 11 to the oversight of charities and the accounting of transfers abroad. In 2002, the UAEG mandated that all licensed charities interested in transferring funds overseas must do so via one of three umbrella organizations: the Red Crescent Authority, the Zayed Charitable Foundation, or the Muhammad Bin Rashid Charitable Trust. These three quasi-governmental bodies are in a position to ensure that overseas financial transfers go to legitimate parties. As an additional step, the UAEG has contacted the governments in numerous aid receiving countries to compile a list of recognized acceptable recipients for UAE charitable assistance. The UAE Ministry of Labor and Social Affairs (MLSA) licenses and monitors registered charities in Abu Dhabi and the northern emirates. These charities are required to keep records of donations and beneficiaries and submit annual reports to the MLSA. Charities in Dubai are licensed and monitored by the Dubai Department of Islamic Affairs.

¶19. The UAE is noted for its growing number of free trade zones (FTZs). There are 17 operating free zones, and eleven more in the works. Every emirate except Abu Dhabi has at least one functioning FTZ. The zones are monitored by emirate-level (as opposed to federal) authorities. There are over a hundred multinational companies located in the FTZs with thousands of individual trading companies. The FTZs permit 100 percent foreign ownership, no import duties, full repatriation of capital and profits, no taxation, and easily obtainable licenses. Companies located in the free trade zones are treated as being offshore or outside the UAE for legal purposes. However, UAE law prohibits the establishments of shell companies and trusts, and does not permit non-residents to open bank accounts in the UAE. The larger FTZ's in Dubai (such as Jebel Ali Free Zone) are well-regulated. Although it is not impossible that some trade-based money laundering occurs in the large FTZs, there is a higher potential for it in some of the smaller FTZs in the northern emirates.

¶20. In March 2004, the UAEG passed Federal Law No. 8 Regarding the Financial Free Zones (Law No. 8/2004). The new law exempts FFZs and their activities from UAE federal civil and commercial laws, but subjects them and their operations to federal criminal laws including the Anti-Money Laundering Law No. 4/2002 and the Anti-Terror Law No. 1/2004. The new law and a subsequent federal decree also allowed for the establishment, in September 2004, of the UAE's first financial free zone (FFZ), known as the Dubai International Financial Center (DIFC). Sheikh Mohammed bin Rashid Al-Maktoum, Crown Prince of Dubai and UAE Defense Minister, is the President of the DIFC, which is currently the only FFZ operating in the UAE. In September of 2005, the DIFC opened its securities market - the Dubai International Financial Exchange (DIFX).

¶21. DIFC regulations provide for an independent regulatory body, the Dubai Financial Services Authority (DFSA), which reports to the office of Dubai Crown Prince and an independent Commercial Court. Observers called the independence of the DFSA into question in the summer of 2004, prior to the inauguration of the DIFC, with the high profile firing of the chief regulator and the head of the regulatory council (the supervisory authority). Subsequent to the firing, Dubai passed laws which appear to give the DFSA more regulatory independence from the DIFC, although these laws have not yet been tested. The DFSA, whose regulatory regime is generally modeled after the United Kingdom system, is the only authority responsible for licensing firms providing financial services in the DIFC. The DFSA has licensed 21 financial institutions and 13 ancillary service providers to operate within the DIFC. The DFSA's rules prohibit offshore casinos or Internet gaming sites' operating in the UAE. The DFSA requires firms to send suspicious transaction reports to the AMLSCU (along with a copy to the DFSA). Although firms operating in the DIFC are subject to Law No 4/2002, the DFSA has also issued its own anti-money laundering regulations and supervisory regime, creating some ambiguity as to the authority of the CB and AMLSCU within the DIFC. Discussions with the UAE Central

Bank on a formal bilateral arrangement are ongoing. The DFSA has undertaken a campaign to reach out to other international regulatory authorities. It has signed MOUs with Turkey and the Isle of Man, and in December 2005 the DFSA signed a regulatory protocol with the CFTC. The DFSA has also signed MOUs with the UAE Securities and Commodities Authority and Dubai Police.

¶22. With regard to banking activities in the FFZs, Law No. 8/2004 limits licenses to branches of companies, joint companies, and wholly owned subsidiaries, provided that they "enjoy a strong financial position and systems and controls, and are managed by persons with expertise and knowledge of such activity." The law prohibits companies licensed in the free zone from dealing in UAE currency (dirham) or taking "deposits from the state's markets." It further stipulates that the licensing standards of companies "shall not be less than those applicable in the state." The Law empowers the Emirates Stocks and Commodities Authority to approve the listing of any company listed on any UAE stock market in the free zone and the licensing of any UAE licensed broker. The law limits any insurance activity in the UAE carried out by a free zone company, to reinsurance. It further gives competent authorities in the Federal Government the power to inspect financial free zones and submit their findings to the UAE cabinet. Companies within the DIFC are not allowed to issue bearer shares, and the DFSA does not allow anonymous directors or clients. DFSA conducts due diligence on institutions and individuals wishing to conduct financial or ancillary services in the DIFC before granting a license to operate. According to DFSA regulators, the DFSA due diligence process is a risk-based assessment that examines a firm's competence, financial soundness, and integrity.

¶23. In September of 2005, the UAE ratified four of the 12 UN conventions and protocols relating to the prevention and suppression of international terrorism. These included the 1999 Convention for the Suppression of Terrorist Financing, the 1997 Convention for the Suppression of Terrorist Bombings, the 1988 Convention on the Safety of Maritime Navigation, and the 1988 Protocol on the Safety of Fixed Platforms. The UAE was already a party to the other eight conventions and protocols. The UAE is a party to the 1988 UN Drug Convention, and in August of 2005 it became a party to the UN Convention Against Corruption. It signed the UN Convention against Transnational Organized Crime in 2002, but has not yet ratified it. It has entered into a series of bilateral agreements on mutual legal assistance.

¶24. The UAE, which adheres to the guidelines and standards recommended by the Financial Action Task Force, was very active in supporting the creation of the Middle East and North Africa Financial Action Task Force (MENAFATF) that was inaugurated in Bahrain in November 2004; the UAE was one of the original charter signatories. MENAFATF is a FATF-style regional body. The creation of the MENAFATF is critical for pushing the region to improve the transparency and regulatory frameworks of its financial sectors.

¶25. The UAE is a regional leader in its efforts to regulate the formal and informal financial systems, and it frequently hosts international conferences, trainings, and symposia. In March of 2005, the UAE Central Bank hosted a GCC/EU Seminar on Combating Terrorist Financing. During this seminar, delegations from all of the GCC countries and from 17 EU countries discussed best practices for implementing AML/CTF laws and regulations. In April, the UAE hosted its third International Conference on Hawala, which was attended by over 400 participants from 74 countries. Delegates included government officials, executives of supervisory institutions, banking experts, and law enforcement officials from the United States, Latin America, Asia, and Europe. The conference statement recognized the key role that hawala and other informal funds transfer systems play in facilitating remittances, particularly those of migrant workers, although such systems can be abused for illegal activities. Speakers discussed ways to ensure hawala is regulated, without driving the system further underground. In November of 2005, the UAE hosted - in conjunction with the U.S. Department of Justice's Office of Overseas Prosecutorial Development Assistance and Training and with the MENAFATF - a GCC-wide training on Advanced Financial Crimes.

Representatives represented a wide cross-section of GCC government agencies, including the Ministries of Justice, Interior, Finance, and Economy, Central Banks, Customs, and private financial institutions. The delegations discussed the legal frameworks for detecting, investigating, and prosecuting financial crimes.

¶26. The United Arab Emirates Government has begun constructing a far-reaching anti-money laundering program, and it is considered a regional leader in these efforts. The United Arab Emirates has sought to crack down on potential vulnerabilities in the financial markets and is cooperating in the international effort to prevent money laundering, particularly by terrorists. There has been a substantial improvement on behalf of the AMLSCU in the area of information sharing with other countries. However, there remain areas requiring further action. The Central Bank and AMLSCU should clarify and assert their jurisdiction in enforcing federal laws with respect to the DFIC. Law enforcement and customs officials should begin to take the initiative to recognize money laundering activity and proactively develop cases without waiting for referrals from the AMLSCU. Additionally law enforcement and customs officials should conduct more thorough inquiries into large undeclared cash imports and exports from the country. United Arab Emirates officials should give greater scrutiny to trade-based money laundering in all of its forms. The Central Bank should be more diligent in its efforts to encourage hawala dealers to participate in the registration program. The UAE should implement a uniform system to monitor all charities active in the UAE, and it should engage in a public campaign to ensure all charities are aware of the requirements.

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